

REMARKS

Claims 1-11 are currently pending in the present application. Claims 5 and 9 have been amended to remove an extraneous word “that”. No new matter has been added.

Claim Rejections – 35 USC §102:

Claims 1, 3, 6, 7, 11, and 12 are rejected under 35 USC §102(b) as being anticipated by the 2001 Ford Mustang Convertible (the “Ford Mustang”).

With respect to claim 1, the Examiner states that the Ford Mustang “has a roof which includes, in the closed state, a section of a transversely running roof strut on an area directly adjacent to the windshield frame that protrudes farther into the passenger compartment than the roof area lying behind it...” The Examiner further states that “[e]ach recess is covered by a latch-actuating handle...” and “[t]he handle meets the limitation of a deformable covering in that the handle covers the recess and is inherently capable of deforming when subjected to a force greater than the strength of the material.”

For a rejection grounded in anticipation under §102 to be proper, every element and limitation recited in the rejected claim(s) must be found in the cited 102 reference. *See* MPEP §2131. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Id.*, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). *See also, In re Paulsen*, 30 F.3d 1475 (Fed. Cir. 1994). The MPEP restricts the prior art that may be cited by an Examiner in making a §102(b) rejection to those where the “identical invention [is] shown in as complete detail as is contained in the ... [rejected] claim.” *Id.*, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

Claim 1 recites, in part, that “the section (6), on a surface (11) facing the passenger compartment (7) has at least one large-area recess (9, 10), coverable by at least one deformable covering (14, 15).” (Emphasis added).

Referring to paragraph [0024] of the application, the “coverings 14, 15, during any head impact by occupants, are deformable without causing head injuries.” (Emphasis added).

Paragraph [0024] further states that “[d]uring an impact, a person accelerated forward is braked

by the coverings 14, 15, so that the airbags can function better.” (Emphasis added). Claim language must be given its broadest reasonable interpretation consistent with the specification. MPEP 2111. Claims must be given their plain meaning unless the plain meaning is inconsistent with the specification. MPEP 2111.01. The plain meaning of “deformable covering” *requires that the occupants do NOT sustain a head injury upon impact with the deformable covering*. It is improper for the Examiner to equate the latch-actuating handle of the Ford Mustang with the deformable covering. More specifically, if an occupant were to impact the latch-actuating handle of the Ford Mustang at a force capable of deforming the latch-actuating handle, the occupant would sustain a head injury due to the rigidity of the latch-actuating handle of the Ford Mustang. For at least this reason, the rejection of claim 1 under the Ford Mustang is overcome.

Accordingly, Applicants submit that claim 1 and dependent claims 3, 6, 7, 11, and 12 are allowable because they recite elements and limitations that are neither explicitly nor inherently disclosed by the Ford Mustang reference cited by the Examiner.

Claim Rejections – 35 USC §103:

Claim 2 is rejected under 35 USC §103(a) as being unpatentable over the Ford Mustang. The Examiner states that “[t]he Ford Mustang Convertible does not disclose the claimed size of the surface of the covering.” The Examiner further states that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to form the latch handles of the 2001 Ford Mustang Convertible with a surface area of 70 square centimetres facing the passenger compartment to enlarge the handles to provide a surface that is easier to grip.”

Obviousness is a question of law based on factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). MPEP § 2141. The Graham factual inquiries include

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art; and
- (C) resolving the level of ordinary skill in the art. *Id.*

“The question of obviousness must be resolved on the basis of these factual determinations. While each case is different and must be decided on its own facts, the *Graham* factors, including secondary considerations when present, are the controlling inquiries in any obviousness analysis.” *Id.*

“Once the Graham factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.” MPEP § 2141(III). According to MPEP § 2142, “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” (emphasis added). “[R]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” MPEP § 2142 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

Based on the above discussions of the explicit teachings of the Ford Mustang, it is not obvious “to form the latch handles of the 2001 Ford Mustang Convertible with a surface area of 70 square centimetres facing the passenger compartment to enlarge the handles to provide a surface that is easier to grip” because the Ford Mustang teaches away from enlarging the handles. More specifically, if the handles were enlarged, the surface area of the rigid handle would also increase, thereby increasing the likelihood of the occupant impacting the handle and therefore sustaining a head injury upon impact.

Thus, for at least these reasons, the rejection of claim 2 is overcome.

Allowable Subject Matter:

The Examiner has indicated that claims 4, 5, and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the based claim and any intervening claims.

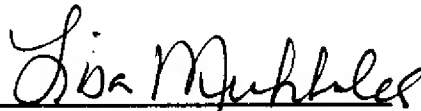
The Applicants thank the Examiner for the indication of allowable subject matter. Claims 4, 5, and 8-10 depend from claim 1, which, as noted above, recites structure that is not present in the cited reference.

CONCLUSION

All rejections and objections having been addressed, it is therefore respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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